MYSORE MEDICAL REGISTRATION BILL 1960.

Introduction

Sri K. K. Hegde (Minister for Health).—I beg to introduce The Mysore Medical Registration Bill, 1960.

Mr. Speaker.—The Bill is introduced.

MYSORE AYURVEDIC AND UNANI PRACTITIONERS' REGISTRATION AND MEDICAL PRACTITIONERS' MISCELLANEOUS PROVISION BILL, 1960.—*Introduction.*

Sri. K. K. Hegde.—I beg to introduce the Mysore Ayurvedic and Unani Practitioners, Registration and Medical Practitioners Miscellaneous Provision Bill, 1960 which has been published under orders of the Speaker in pursuance of rule 64 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

Mr. Speaker.—The Mysore Ayurvedic and Unani Practitioners, Registration and Medical Practitioners, Miscellaneous Provision Bill, 1960 is introduced.

MYSORE HOMEOPATHIC PRACTITIONERS, BILL, 1960.

Introduction.

Sri K. K. Hegde.—Sir, I beg to introduce the Mysore Homeopathic Practitioners, Bill, 1960 which has been published under the orders of the Speaker in pursuance of rule 64 of the Rules of Procedure and Conduct of Business in the Legislative Assembly.

Mr. Speaker.—The Mysore Homeopathic Practitioners, Bill, 1960 is introduced.

MYSORE RENT CONTROL BILL, 1960 AS PASSED BY LEGISLATIVE COUNCIL

Motion to consider Debate (*contd.*)

† **Sri V. Srinivasa Shetty** (Coondapur).— While welcoming this measure which is long over due, I should like to make a few suggestions. These rent control provisions all over the the world, more so in India are a war time measure. During the war, these measures were brought into force. The Government had promised to repeal the measure but in practice it has always been found difficult to repeal these provisions and ultimately it has come to be a permanent feature of our statutes. It is to say the least a necessary evil. It is a provision which puts a lot of restrictions on the owners and the tenants; but all the same it is a necessary evil. The landlords do not like it; the tenants are not very

(Sri V. SRINIVASA SHETTY)

much pleased; but all the same the tenants cannot do without it. This Bill has enormous scope for mischief, for graft, for partiality and a lot of harassment. It just like any war time measure, just like Prohibition, for example. It is a measure which entails a lot of harassment and corruption. It is a measure which the Government or the party in power have misused the powers. I know of several cases in Bangalore, not reported unfortunately. Recently, some time back I read a decision of the Allahabad High Court wherein a Deputy Minister of the Government of U. P. obtained a house several years ago he ceased to be Deputy Minister but refused to vacate the House when the owner required the House. It was a reported case. Unfortunately I could not lay my hands on that particular decision. He refused to vacate the House. He belongs to the ruling party. He flouted the decisions of the rent control court and the appellate court. The unfortunate owner had to approach the High Court. I read only the High Court decision. I do not know whether he flouted the decision of the High Court also. They made very severe strictures against the fissiparous activities of certain persons who in the guise of power misused these provisions. It is not a general rule, but there is scope for mischief. I know even in Bangalore several persons, though they do not need the Houses, take the Houses, rent the the houses and the authorities are not in a position to approach them and take back the houses.

Sri KADIDAL MANJAPPA.—Excepting in the case of cinema theatres, in the case of residential buildings, I have not come across such cases so far.

Sri V. SRINIVASA SHETTY.—It is our misfortune on this side that we are not unable to make the other side to see things properly. For example, where prohibition is in force, there is a lot of co ruption. I want the Honourable Minister to admit that. I request the Honourable Minister to make some private enquiries. As Minister he may not be able to get the information very easily, but it is a fact. If some private and confidential enquiries are made, it is just possible to know what an amount of corruption, what an amount of partiality is there in the allotment of houses, the ability of certain persons to get Houses whereas other persons in decent position will not get Houses. Some of these things may not be able to be avoided by the Government even by law. What I say is, this is a provision which invites such things. Such measures are a necessary evil, but along with it goes a lot of evil. The Government should take these criticisms in good spirit, which they have not done till now Practically during the discussion on every Bill, even when we point out patent errors, ludicrous sections which are incorporated in the Bills, Government are not willing to admit the mistake. That is the misfortune of the country and the State. But with all its evils, it is a welcome measure. I welcome it.

Having said these things, I should like to make a few remarks with regard to the provisions of the Bill itself. I have nothing to say against the scheme of the Bill. I have gone through it. I do not propose to

say anything against the scheme as such. Formerly I know in the Madras State, the courts which enquired into these cases were the revenue courts.

A lot of criticism was levelled against the Revenue Courts and ultimately the Civil Courts were invested with the jurisdiction just as it is in this Bill. Of course, I am one of those who always thought that these things should be invested with the judicial officers like the Civil Court. But, as a lawyer I know that civil courts have got a leisurely way of doing things. They are not purterbed by anything. The most urgent things are viewed with the greatest equanimity. Even when both the parties are willing, it may not be possible for them to move the court. Why I say this is, I want the Government to see whether a time limit could not be put for the disposal of these cases. A petition for eviction or fixation of fair rent should not be made to drag on in a civil court for years and years. By doing so, the very purpose is not served. I request the Government, while framing the rules, to see if it is not possible to put a time limit for the disposal of these petitions a period of three or six months. I really welcome the measure ; till now the Act did not apply to whole State as such.

Then, Sir, I should like to say a word about the proviso to clause 2. We are in July 1961 and any house constructed in 1961 will get exemption till 1966. The houses constructed in 1966 will get an exemption till 1971. Obviously, the reason behind this seems to be that the cost of construction of buildings is very high and the land-lord should be given a little latitude to get as much as possible from the tenant ; otherwise, I do not know why this provision should have been there. Sir, I am opposed to this proviso and it seems to be an anomoly in the Bill.

Sri F. H. Mohsin.—Sir, I was in the Select Committee. The intention in adding this proviso was only to encourage new buildings to come up. Otherwise, new buildings would not come up due to the standard rates fixed.

Sri V. Srinivasa Shetty.—That comes to the same thing. You encourage people to put up new buildings and take as much as possible from the tenants. Sir, even in spite of restriction people go on investing on buildings, especially in view of the land reforms. Any person would like to invest his surplus money on buildings ; there is no other way. I say, this is too liberal a provision to allow five years' latitude to the land-lord.

Mr. Speaker.—We will now rise and meet after half-an hour.

The House adjourned for recess at Ten of the Clock and re-assembled at Thirty Minutes past Ten of the Clock.

(Mr. DEPUTY SPEAKER in the Chair)

Sri V. SRINIVASA SHETTY.—Sir, clause 6 seems to be a little bit out of place.

"6. *Order for leasing of occupied building.*—

(1) Where a landlord is in possession or is entitled to immediate possession of more buildings than one in the same area and the Controller is of the opinion that having regard to the landlord's calling, standard of living, nature and extent of business and other material facts, the landlord's residential or non-residential requirement, as the case may be, would be, adequately served by allotting to him one or more of the said buildings and that the other buildings are needed for a public authority, the Controller may by order in writing served on the landlord, allot to him for his residential or non-residential purposes, as the case may be, such one or more buildings and order the leasing of other buildings to such public authority as he thinks fit."

When a landlord is in possession of more buildings than one, he should be allotted one building and allowed to retain only one for his purpose and others should be leased out. But this looks a little bit awkward. This poor landlord–they are a bad lot no doubt-he his not even allowed the choice of his own building.

Sri KADIDAL MANJAPPA.—

"Having regard to the landlord's calling standard of living, nature and extent of business and other material facts...

That means, after holding an enquiry.

Sri V. SRINIVASA SHETTY.—I am the owner of several buildings. I am in a building which I have built for purposes of my own residence. I am in possession of two other buildings also. And this wonderful Controller says that I am not entitled to reside in my own building. He may say : 'you go and reside in an out-house which is consistent with your status' He may say that : Are you going to raise such an anamolous position. The man has a building for his own residence. He is living in that house. The Controller says : 'you are a man lower in status ; you are not entitled to reside in that house ; go and reside in the out-house which is quite in consonance with your status'. I do not know ; this is an exceptional case. He may not exercise these powers. But is the Hon'ble Minister really justified in taking such an attitude ! How is this to be decided by the Controller ? How can he tell a landlord that he is not entitled to reside in his own house which he has built for this purpose ? It is a most wonderful provision which I have seen which gives a handle to the Controller to evict a man from his own house and ask him to reside in one of the other houses according to the sweet will and pleasure of the Controller ? It is not only unjust but it looks ridiculous that such a provision should be there at all. I request the Hon'ble Minister to look into the provision a little

more carefully. I can understand that he should not be allowed to be in possession of more houses than he requires. But suppose he has got a sentiment for a particular house and he says that he will reside there ! Can he be evicted from there ? if so why should he be evicted ? Here is a power given to the Controller to evict a man from his own house. He may say that the landlord is not entitled to reside in that big House. It seems to me that there is some thi g wrong with the provision that is found here. Then the sub-clause (2) reads,"

> "Any landlord who contravenes an order directing the leasing of any building made under sub-section (1) shall, on conviction, be punished with simple imprisonment for a term which may extend to three months or with fine or with both."

Suppose he says, this is my own house and I will reside here, he will be contravening the order and he may on conviction be punished with an imprisonment of three months. This is a serious matter which I request the Hon'ble Minister to look into and make suitable alterations.

Of course, when I say this, I am reminded of an instance I remember to have read in Rmoan History. People residing in their own houses were evicted and people in power got into those houses. I remember Mark Antony seems to have done this. He evicted a very important person from his house and got into his house and gave the other man a hut to live in. That attitude seems to be prevalent behind these provisions.

Regarding sub-clause (1) of clause 7, there also there is an anomaly. It says.

> "Where a building is directed to be leased to a public authority under section five or section 6, the Controller may, if he deems fit, order the landlord to make such improvement or alterations, as may be necessary to the building within such time as may be specified and to make such increase in the rent of the building in accordance with the provisions of section 14....."

The landlord has constructed a building for a residential purpose, but here is the Controller who comes and says that he should convert it into non-residential buliding and make altertations to it. I can understand some improvements or repairs to it, but here there is provision to alter the building. How can a building be ordered to be altered ? He can say : "Pull down a wall" or "Put up a new wall" Does the law contemplate such a thing at all ? Can you order a landlord to alter a buliding completely ?

Sri KADIDAL MANJAPPA.—Not completely, Please read the proviso.

Sri V. SRINIVASA SHETTY.—The proviso speaks only about the limit of the cost of alteration. I can understand your ordering to make alteration in the building if you are going to acquire the building

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Otherwise if you order an alteration to the building and if the person to whom it is alloted goes away tomorrow, the building will go back to the landlord and he may restore the building to its original condition as he may not want that alteration. Again at another time the Controller may ask him to make some alteration. There must be some limit to this. The limitation in the proviso is only with regard to the cost of alteration and not with regard to the alteration itself. A buliding cannot be ordered to be altered to suit the interests of some person who is a temporary resident. This clause needs to redrafted or amended suitably.

Then sub-clause (2) of clause eight says that in selecting the public authority or other person in whose favour an ord r may be made under this section, the Controller shall observe such order of priority as may be prescribed. In some other clauses I find that he has been given the right to pass any order as he deems fits but here he has to observe an "order of priority as may be prescribed". I only wish to utter a word of caution. This is one of the most misued provision. I am not referring to any particular Controller. This provision is liable to be misused in all places in all States in all countries. Government may keep this in view. Naturally, there is some provision here to prescribe an order of priority To what extent this prescription will be seen. Government will make Stringent provisions to see that the said order is follwed by the authority in allotting the house.

I am most mistified by sub-clause (1) (*b*) which says :

> "may, by order direct that neither the landlord nor any other person shall, without the permission of the Controller, dispose of or structurally alter the building or let it out to a tenant or occupy it or use it until the expiry of such period not exceeding one month, as may be specified in the order."

He has power to ask the landlord to keep a building vacant up to one month. Who is responsible for its rent for one month, I do ont know. It may be fetching Rs. 500 or Rs. 1000 rent month or it may be a small amount. Who is responsible for the payment of this rent ? The Controller says, "you keep this building vacant for 30 days. It must fetch some rent for those 30 days. Who is to pay the rent ? Is it the Controller or the Government or the subsquent occupier of the house ? Let us know how this rent is going to be reimbursed to the landlord who is the loser in this particular case.

Then I refer to clause 12 (2). There are different categories of appellate courts in this Bill. The appellate court under. Part II is the Divissional Commissioner. I have nothing against the Divisional Commissioner being the appellate authority in this case. But the wording that the appellate authority may pass such order on the appeal "as it deems fit" is something to which I object. It gives lot of latitude

to the court. I think instead of the term "as it deems fit", It should be "just and reasonable" or "just and proper". Any order passed by the Divisional Commissioner may not be liable to be questioned, but there should pass a just and proper order and not any order as he deems fit.

Then there are ample provisional to safeguard against puggree. Clause 18 derls with unlawful charges not to be claimed or received. I have not heard of pugree in Bangalore, but in certain places like Bombay and even in London, I have read that there is an unconscionably high amount of puggree prevalent. Bangalore being a rapidly growing city we do not know when the system will creep into this beautiful city and spoil its fair name. My friend over here says it has already begun.

This is one of the pernicious systems which ought to be done away with a very strong hand. But there is a proviso to clause 18 (*a*), which enables the landloard to 'receive or stipulate' two months' rent by way of advance. If he applies to a rent court, he is entitled to one month's advance. I do not know if ordinary, middle-class people, Government servants, can pay two months' rent without hardship. One month's advance rent is enough.

Sri S. D. KOTHAWALE.—That is possible only if the parties agree. There is no compulsion. It is only permissive.

Sri V. SRINIVASA SHETTY.—The landlord may 'receive or stipulate'. The law itself allows him to stipulate.

I would now refer to clause 21 (*g*). If a Government servant retires can the Government ask him to quite immediately if he had been occupying a house provided by Government. Is that fair. He has no other place to go. Should he land himself on the street ?

Sri KADIDAL MANJAPPA.—Supose Mr. Shetty employ's a cook and allows him to reside in the outhouse. After sometime, he may send the cook out and would Mr. Shetty allow him to continue in the house even after.

Sri V. SRINIVASA SHETTY.—If this provision is to apply only to such cases, I can understand that.

I would refer to sub clause (4) of Clause 21. What is the meaning of 'greater hardship' here. Suppose a landlord has only one house and he wants it. If he is denied the house, he will suffer hardship. If the tenant is evicted, then the tenant would suffer. One or the other would be on the street . How would the courts decide ? I feel that such things should not be left vague to to the courts. That would lead to needless litigation and parties would go up to the High Courts and waste time and money. In all fairness I believe in such a situation if the landlord badly needs the only house he has, he must be shown preference. That it only proper and logical.

I would now come to part VI. There seems to be a lot of agitation concerning hotels and lodging houses. The hotel keepers seem to contend that the Central Government is going to formulate another Bill and

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therefore those provisions are unnecessary here. Anyhow such provisions are fair and they ought to be somewhere, either here or in a Central enactment.

Clause 32 says that 'The competent authority may fix a fair rate... . Why should the Rent Controller be given this latitude or full discretion, either to fix or not to fix. If the Government thinks that Board and loding charges ought to be fixed by law, how is the Controller entitled to the discretion of fixing or not fixing.

Mr. DEPUTY SPEAKER.—We have at our disposal only three hours. I am afraid he may take away all the time.

Sri V. SRINIVASA SHETTY.—If there are other speakers. I am prepared to close. I have practically come to the end.

I was saying that the Controller should be compelled to fix fair rates for boarding and loding. The word 'may' should be altered 'shall' as suggested by me in an amendment. Of course he may have a little discretion in certain cases, not generally speaking. Government have also power to add to the list, either to drop or to add. I believe I have made myself lear in this case that discretion should not be allowed to the controller to refuse to fix the rate when the Government think that in a certain area the rate should be fixed for all the hotels.

11-00 A. M.

Sri KADIDAL MANJAPPA.—'May' means 'shall' under certain circumstances.

Sri V. SRINIVASA SHETTY.—To be on the safer side, 'shall' would be better and safer than 'may'. If the Minister feels that 'may' gives ample powers to the Controller, 'may' gives power to refuse also.

Sri B. D. JATTI.—Your is suggestion is that the landlords should not have the choice.

Sri V. SRINIVASA SHETTY.—The Controller should not be allowed any discretion to refuse to fix the rates. 'shall' would have to be substituted for 'may' in order to make it clear. In this paticular case, I doubt whether 'may' means 'shall'. It is our bitter experince that in passing some of these Bills Government forget certain very important provisions and at a latter stage when we go and approach the Government, they find it very difficult to pass the amendments. For exmple, in this paricular Bill, there is no provision to set aside the *ex-parte* order. As an atfrthought they have made a provision to fram rules to set aside *ex-parte* order. Ordinarily, a provision should have been made in the bcdy of the Bill. For very good reasons a party may not be able to attend a trial court. Then an *ex-parte* order is passed. In innumerable measdres such a provision is absent and Government at a later stage will find it difficult to bring in an amendment. In this particular case, Government have taken powers to frame rules to set aside *ex-parte*

orders. At least something is better than nothing. At least as an afterthought, Government seem to have thought about this matter, instead of bringing it in the body of the Bill I would have been very glad if that provision had been included in the body of the Bill itself but under the rule making power, they have taken the power. I hope won't forget framing to the rules for setting aside the *ex-parte* orders.

As I said on the whole, this Bill is certainly a necessary evil which must find a place in the Statute Book. I hope the Government would take into consideration the very fair criticisms which I have been able to level against this Bill and at least accept certain of the amendments which some of us propose to the Bill. Thank you.

Sri F. H. MOHSIN.—I rise to support the Mysore Rent Control Bill as passed by the Legislative Council.

Sri C. J. MUCKANNAPPA.— One point. He is in the Select Committee. There is a rule that a member who is in the Select Committee should not take part in the discussion on the Report of the Select Committee. That is the ruling given by the Chair some time back.

Sri KADIDAL MANJAPPA.—There is no such rule. Sometimes before the Bill is referred to the Select Committee, if a member's name is there, he generally avoids participating in the debate, otherwise, no bar.

Sri. C. J. MUCKANNAPPA.—You please look into the proceedings. There was objection raised to Mr. Kenchappa's taking part in the debate on the Select Committee Report.

Sri KADIDAL MANJAPPA.—He had agreed to the provisions. Without sending a minute of dissent, he went on speaking on that occasion.

Sri C. J. MUCKANNAPPA.—Even here the Honourable Member has not given a minute of dissent.

Mr. DEPUTY SPEAKER.—Has he sent any minute of dissent?

†Sri. F. H. MOHSIN.—I am supporting the Bill and I am replying to the objections raised. Because many points which are touched upon by Sri Srinivasa Shetty have been discussed in the Select Committee and I am replying to him. I am not speaking anything against the Bill as such, of course, I was in the Select Committee and I am one of the persons responsible for bringing the Bill in the form in which it is brought before the House. I want to explain the facts which have been brought to the notice of the House by Sri. Srinivasa Shetty.

Sri J. B. MALLARADHYA.—If I remember correctly, as stated by the Honourable Minister for Revenue, there is no rule. But this House is following a very healthy convention that when a member has been working as a member of the Select Committee, he avoids participating in the debate when the matter comes before the House. This is to my

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knowledge. If I remember correctly, this is the position. Of course, if he wants to say something different from what there is in the Bill, so long as he does not give a minute of dissent.....

Mr. DEPUTY SPEAKER.—He says that he is supporting the Bill.

Sri J. B. MALLARADHYA.— In one sense, it is redundant. Because he has put his seal of approval. It is only those who have not been in the Select Committee can say something against the Bill or for the Bill.

Sri F. H. MOHSIN.—If that is the convention, I do not want to break that convention.

†Sri B. R. SUNTHANKAR (Belgaum City).—Mr. Speaker, Sir, the rent control measure has come to stay in our country since the war time. It is going to be a permanent feature in our country and circumstances have made it a necessity. The aim of this measure is to regulate the relationship between the landlord and the tenant. During the war time the rates of rent began to soar high and the landlord began to claim exorbitant rent. That is why the necessity for this measure to regulate the relationship between the landlord and the tenant has come to stay.

But, I want this problem to be looked at in a broader context. The main problem is in the urban areas where towns and cities are growing by leaps and bounds and unfortunately, house building activity is not kepping pace with this increasing population. In the survey that was carried out by the Planing Commission it was noticed that the urban population has increased from 3 to 5 percent whereas the percentage in the construction of building activity is from 2 to 2. 25 percent. That is why this problem has aggravated. During the last decade, according to census figures, the population has increased by 21 and odd percent. So, attention should be concerntrated on the housing activity in the cities and towns. The performance in this respect in the Second Plan is not satisfactory. At least in the Third Plan period the target should be fulfilled.

Coming to the details of the Bill, I will refer to clause 1, sub-clause (4). According to this Bill, it will expire on 31st December 1970 but even after that this Act, will stay under the Mysore General clauses Act. Why Government should bind itself now to What is going to happen after 1970 ? There will be ten years for the execution of this Act and in the experience that is gained in these ten years, the whole situation that would be then prevailing may be reviewd and this Act can be revived, So, I do not understand why the Goverement is binding its own hands by making it a permanent measure after 1970. Then, according to the proviso to clause 2, the landlord is given scope to extract exhorbitant rents from his tenants for 5 years after 1957. This proviso defeats the very purpose of this legislation. This proviso should be

deleted, Then, Sir, for fixing fair rent, basis of property tax assessment as registered in the local authority has been taken. I do not think this is the right basis. We know that the assessment that would be found in the registers would not be the correct one because the landlords always try to have in the registers less rental value. Of cource, that would benefit the tenant. But on a matter of principle, I am not for this. The prevailing rates in the locality should be taken as the basis.

Then Sir, about fixing of fair rent in lodging houses and hotels. The relative clauses that 46-47 shall be taken as the basis. I wish to point out that the rates began to increase after the year 1941-42. During the period 42 to 47 there has been a great rise in the rates of these hotels and lodging houses. If we take as the basis 46-47, It will create rather great hardship for the lodgers. So, I think Sir, instead of 46-47, the year 1941-42 may be taken as the basis.

Sri KADIDAL MANJAPPA.—There is no reference to the year 1947 in that particular clause. It is with reference to the fixation of fair-rent under clause 6. It is not applicable to hotels.

Sri B. R. SUNTHANKAR.—My observations should be equally applicable to the fixation of fair rent for residential houses.

Sir, with these observations, and with a earnest request that the housing programme should be taken up very earnestly and accelerated during the third Five-Year Plan, I close.

†Sri F. W. CORBETT (Nominated). —Sir. in raising to support this Bill, I would like to support the Hon'ble Member Sri Sunthankar in his remark in respect of provisio to clause 32. Today, new buildings are being rented out at very exorbitant rents. Buildings which used to be rented at Rs. 50 or 60 are being rented for a rent of Rs, 300.

I would also like to support what my friend Sri Setty said about clause 6. I do not see why the Government should take upon themselves the responsibility to control rates in boarding houses because the standard of food and accommodation provided in different boarding houses varies. If any boarding home charges too much, far inconsistent with its standards, it will only lose its business and it should be left entirely to the people to adjust their own boarding rates. When you call this Mysore Rent Control Bill. some of the provisions of this Bill belie its very name. You are controlling accommodation more than you are controlling rents. If you control the rent, nobody will object to it. But when you come to controlling accommodation and try to tell the man : You must take this person and that person and nobody else, you will be interfering with the right of that individual. I have given notice of one amendment here about which I am speaking later. the expression : "part of the building" should be excluded. I will tell you why. In Bangalore cantonment and city to which this Bill will apply, you have buildings which will have accommodation

(Sri F. W. CORBETT)

needed for more than one family. In places like Bombay and Calcutta you have buildings with separate entrances, separate meters, separate kitchen and separate arrangements. But here in Bangalore and elsewhere, you have a big bungalow. There is difficulty of a accommodation and a person prefers to give on rent one or two rooms. There is no separation between the two except for a door. There are disputes about water, about light and about servants and worse than that. A man may occupy a house and he might have a young wife or young daughter and the controller forces into your adjoining room an undesirable man. I have noticed several instances and several cases where the lodging of an undesirable tenant has led to disruption of families. Therefore, I say Sir, that the expression : "part of the building" should be excluded from the scope of the Bill.

Sri G. VENKATAI GOWDA.--There is safeguard provided in clause 8 (3).

Sri F. W. CORBETT —That safeguard does not hold good Sir, in these cases. It is well known, there was even a murder committed on account of some dispute over the use of latrine. Even the legislators were objecting to two being asked to occupy the same room. You are asking two families, unrelated, to each other to live in the same room. It leads to difficulty and they cannot adjust themselves. If you exclude the expression "part of the residential buildings" all these problems will be solved. Because, then, if I have two rooms to let, I give it to a friend or a relative. If he misbehaves himself, I tell him to go, because he is a tenant at will. But if you force a tenant on me and if he makes himself abnoxious, I have no right to turn him out.

An HON'BLE MEMBER.—The police will do it for you.

Sri F. W. CORBETT.—There is no need to go to the police. Prevention is better than cure. I tell you there are atleast 100 cases where people living in two or three rooms and so many people who can easily let part of their accommodation. But if you ask them to go before the Controller, they may be afraid that the controller may put in a stranger there. The same objections that the legislators raised in respect of using the same room, the same objections will apply in respect of a private building. I suggest that the term 'part of the building' should be eliminated from the scope of the Bill and if you do that people will adjust themselves. They will choose to take their friends and relatives and to that exent the work of the Controller will also be reduced. People will adjust themselves. The moment I go to the Controller, he will shew somebody else into my rooms. whom I may not be willing to take. Therefore, I suggest to the Government that you should confine yourself only to the rent and try to control the rent rather than control the accammodation.

With these words I support the other provisions of the Bill.

11-30 A.M.

Sri KADIDAL MANJAPPA (Minister for Revenue).—Mr. Speaker, Sir, Hon'ble Members who have participated in this debate have been pleased to welcome the measure. They have made certain suggestions Sri Srinivasa Shetty was pleased to say that this is an inevitable evil. No. doubt, it was a war measure at the time when it was first enacted. At the time of war some people in the urban areas particularly in big cities and towns developed a grabbing tendency to grab as much wealth as possible at the cost of the helpless tenants. Government thought that this grabbing tendency would date soon after the cessation of war, but unfortunately this tendency continues even today. Therefore this measure is inevitable in the interests of the tenants and in the interests of the Public in general. My friend was pleased to say that the power under this law has been misused to almost all the States in this country and in this State also. There is scope for misusing every law. It must be borne in mind that there is a class of persons in this country who think of evading or misusing any law passed in the country. Such persons have no respect for law, they do not attach any sanctity to the laws passed by the legislature and their representatives in the country. It is an unfortunate thing. It is happening not only with regard to this law but also with regard to other laws. That apart Government are doing their best to implement this law in the interests of the public in general... They have instructed the officers and controllers to be impartial in dealing with the requests of either landlords or tenants. We will see that no harassment is inflicted upon any class of persons. Here and there Sri Srinivasa Shetty said that Government are not willing to admit their own faults and the injustices that are going on in certain spheres of Governmental activities. We are not so adamant or so foolish as not to admit certain things that are happening in the State. It is ture that some irregularities are happening in some departments Similarly, in regard to the implementation of this law also there may be some irregularities and there may be a few case of corruption, but that does not warrant us to come to the general conclusion that all the provisions contained in this law are going to be misused and there will be wholesale corruption.

Sri G. VENKATAI GOWDA.—Don't shut your eyes to facts.

Sri KADIDAL MANJAPPA.—We are in this world; we know what is happening in this world.

Sri M. RAMAPPA.—You know, but you do not admit.

Sri KADIDAL MANJAPPA.—Who said that we are not going to admit. The Hon'ble Member was pleased to say that the rules should provide for the speedy disposal of case that are going to be filed in civil courts. That is a matter to be examined. While framing the rules this suggestion will be borne in mind.

(Sri KADIDAL MANJAPPA)

With regard to certain provisions in the Bill he was vehemently opposing those provision. With regard to the proviso to clause 2 all the speakers who spoke suggested that there is no need for a proviso to clause 2. The proviso reads like this :

> " Provided that the said parts shall not apply to a building constructed after the first August 1957 for a period of five years from the date of construction of such building."

Similar provision was to be found in the law already in force. The Select Committee thought over the matter and they came to the conclusion that with a view to afford incentives and encouragement to persons who intend building ouse such a provision should be i corporated in the Bill itself. Therefore we have incorporated this proviso.

Then Sir suggested that this law should not be applicable to a portion of building. I am sorry I cannot accept his suggestion. If the law is not to be applied to a part of the building any landlord can split up his building into several parts and lease them out to several tenants and evade the law and the very purpose of the law will be defeated.

There is some safeguard provided in sub-clause (3) of Clause 8. It says :

> " In considering the causes, if any, shown by the landlord or other person in possession, the Controller shall, in case the premises to be leased is a part of a building, give due regard to the customs, manners and social conventions of the persons occupying the remaining portions of the building, in so far as such customs, manners and social conventions are not opposed to law, public order, morality or health."

This suggestion of Sri Corbett was considered by the Select Committee. If complete choice is given to the landlord in some cases the landlord may be able to exclude certain classes of tenants from having accommodation anywhere in some towns. There are in this country caste prejudices and religious prejudices. So while making law if we give scope for such prejudices, it will not be proper The Select Committee, therefore, thought that the safeguards provided in sub-clause (3) was sufficient in the interests of the persons who are occupying the remaining parts of the house.

Sri Srinivasa Shetty was pleased to observe that the words " as it deems fit" are not sufficient. While empowering the Divisional Commissioner to dispose of appeals these are the words used in many enactments. Even if you put the words " reasonable or just" the meaning is the same.

Then he was referring to the proviso to clause 18 (1) (*a*) :

"Provided that the landlord may receive or stipulate, for the payment of an amount not exceeding two months' rent by way of advance."

I do not think there is any harm in having this proviso. This does not amount of receiving or agreeing to pay puggree. He was pleased to refer to sub-clause 1(g) of clause 21. He was suggesting that even after the termination of the services, the tenant should be permitted to occupy the building. I think he is not going to press this point.

Sri G. VENKATAI GOWDA.—The tenant should be empowered to continue in the premises.

Sri KADIDAL MANJAPPA.—Supposing I employ a servant. I give part of my house as long as he is in my employment. When he ceases to be in my service why should he have the privilege of continuing in the premises?

Mr. Srinivasa Shetty was referring to sub-clause 4 of clause 21. I do not think there is anything wrong with it. It is a discreation given to the court. Mr. Shetty has full faith in the court. If the landlord is comfortably living in some place at present and he wants to get into his own building and the tenant has no other building and he would be thrown upon the streets, it stands to reason that the court should use its discretion and decide what is best in a particular circumstance.

Sri V. SRINIVASA SHETTY.—We are making laws for the Courts to enterpret. We are not asking the courts to make laws.

Sri KADIDAL MANJAPPA.—With regard to part VI, it was suggested by Mr. Corbett that there is no need to control the charges levied by hotels. It has been the *consensus* of opinion that there should be some kind of control on the hotels. Some people are complaining that the charges are exhorbitant in some hotels. No doubt this is a new provision so far as the old Mysore area, Hyderabad and South Kanara are concerned. The Select Committee felt that provisions are necessary to control the charges levied by the hotel-keepers. They are useful provisions.

A suggestion was made by Mr. Srinivasa Shetty that instead of word 'may' the controller should be compelled to fix rates for all hotels. There should be some discretion given to the Rent Controller in this regard. There may be no necessity to fix charges in respect of all the hotels. If the charges are already reasonable, the Controller need not interfere. There may be a petty tea shop or a small wayside hotel. In that case there may not be an urgent need to fix charges.

Sri V. SRINIVASA SHETTY.—That gives so much of latitude to the officer.

Sri KADIDAL MANJAPPA.—We are going to frame rules.

I agree with Mr. Sunthankar that the housing activity has not kept pace with the need for accommodation in the cities. Firstly, the population is increasing, secondly, there is migration from rural to urban areas. The housing problem cannot therefore keep pace with the increased demand for houses in the urban areas.

With these observations, I commend the measure for the kind consideration of the House.

Mr. DEPUTY SPEAKER.—The question is :

" That the Mysore Rent Controller Bill 1960, as Passed by the Legislature Council be taken into consideration."

The motion was adopted.

Clause 2.

Mr. DEPUTY SPEAKER.—The question is :

" That Clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.

Sri F. W. CORBETT,—I beg to move :

" That in item (*a*), the words "or part of a building or hut" shall be deleted."

Mr. DEPUTY SPEAKER.—Amendment moved :

" That in item (*a*), the words 'or part of a building or hut" shall be deleted."

† Sri F. W. CORBETT.—The clause as it stands would cause great hardships to a landlord who splits his building into several parts and lets out each of them separately. If happens that the Controller may allot people with differing habits and practices into the same building. They may have nothing in common between them and endless quarrels begin. If a non-vegetarian is thrust in the midst of confirmed vegetarian, the result would be bad indeed and not infrequently such things do happen. The tenants do not pay rent for six months or so. A man may keep late hours or tries to molest somebody in the family and then you want him to rush to the police simply because the Controller has let in somebody who is undesirable in the midst of many families. I suggest that it should be left to the landlord to take in people of their own choice who would be tenants-at-will. Because of the troubles involved, today people do not inform vacancies to the Rent Controller. They consider it better to give portions to their own friends and relatives who will suit their convenience. In view of these, I request that my amendment be accepted.

† Sri G. VENKATAI GOWDA.—I appreciate the laudable object with which amendment has been moved. At the same time I am doubtful whether we could give approval to creating a class who will be tenants-at-will. I seriously apprehend that the purpose of the Bill would be defeated. If situations pointed out by my friend Mr. Corbett, arise then there are other remedies open. Creation of tenants-at-will apart from being retrograde, will defeat the objects of the Bill.

† Sri KADIDAL MANJAPPA.—I have already explained the difficulty in accepting the suggestion. If a part of the building is excluded from the purview of the Bill, every landlord will lease out one part after the other and then evade the law. However, if a residential building fetches a rent not exceeding Rs. 15, this law does not apply. Though I appreciate the spirit with which the amendment is moved, I am sorry it is not possible to accept it.

Mr. DEPUTY SPEAKER.—What does the Hon'ble Member propose to do with his amendment ?

Sri F. W. CORBETT.—I beg leave of the House to withdraw the amendment.

The amendment was, by leave of the House, withdrawn.

Mr. DEPUTY SPEAKER.—The question is :

"That Clause 3 stand part of the Bill."

That motion was adopted.

Clause 3 was added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 4.

Sri F. W. CORBETT —I move :

"That in item (1) of sub-clause (4), for the words 'fifteen rupees' and 'one hundred and eighty rupees', the words 'fifty rupees' and 'six hundred rupees' shall be substituted respectively."

Mr. DEPUTY SPEAKER.—Amendment moved :

"That in item (i) of sub-clause (4) for the words 'fifteen rupees' and 'one hundred and eighty rupees', the words 'fifty rupees' and 'six hundred rupees' shall be substituted respectively."

Sri F. W. CORBETT.—In moving this amendment, I would like to point out that Rs. 15 was fixed twenty years ago. Rents have gone up four and five-fold and therefore, I think Rs. 15 should be raised to at least Rs. 50 This also would reduce the work of the Controller because portions of buildings rented for Rs. 15 need not come within his purview at all.

Sri KADIDAL MANJAPPA.—I am sorry I cannot accept the amendment. The Select Committee thought over the matter. They said that the limit prescribed namely Rs. 15 is sufficient.

Sri F. W. CORBETT.—I have expressed my views. If the Hon'ble Minister is not prepared to accept, I beg leave of the House to withdraw my amendment.

The amendment was, by leave of the House withdrawn.

Mr. DEPUTY SPEAKER.—The question is :

"That Clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 5.

Sri V. SRINIVASA SHETTY.—Sir, I move :

"That in sub-clause (1) for the words 'as he may think fit', the words 'in the order of priority as prescribed' shall be substituted."

Mr DEPUTY SPEAKER.—Amendment moved :

"That in sub-clause (1) for the words 'as he may think fit', the words, 'in the order of priority as prescribed' shall be substituted."

† Sri V. SRINIVASA SHETTY.—It is a very innocuous amendment and professedly, very reasonable, I do not think the Hon'ble Minister will object to accepting this very innocuous amendment. The Hon'ble Minister also has admitted that irregularities are being committed, not always. But my own view is that it should be the least possible way. In certain other provisions words 'as prescribed' have been incorporated. Let the authorities follow the prescribed rules in order as the Government frame. I do not think there is any harm in accepting this innocent amendment. In other cases they have done. If the Hon'ble Minister feels that it is an insult to accept the amendment, that is a different matter.

† Sri KADIDAL MANJAPPA.—I have accepted on previous occasions. I wonder why a man of the eminence of Sri V. Srinivasa Shetty thought of moving this amendment without looking to provisions carefully. If he had only looked to clauses 5, 6 and 8, he would not have moved this amendment. Clause 8 provides for fixing the priority. I would request the Hon'ble Member to read Clause 8 :

"Procedure to be followed before ordering leasing of any building for a public authority or other person under section 5 or section 6..."

Sri V. SRINIVASA SHETTY.—If it is already there, I fail to see what is the harm in accepting the amendment.

Sri KADIDAL MANJAPPA.—Where is the need ? It is redundant. Clause 8 applies to orders passed under section 5 or section 6. Clause 8 lays down the procedure for passing orders. While passing orders, the Controller should adhere to the priority to prescribed.

Sri V. SRINIVASA SHETTY.—I press the amendment.

Mr. DEPUTY SPEAKER.—The question is :

"That in sub-clause (1) for the words 'as he may think fit', the words 'in the order of priority as prescribed' shall be substituted."

The amendment was negatived.

Mr. DEPUTY SPEAKER.—The question is :

"That Clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 6.

Sri V. SRINIVASA SHETTY.—Sir, I move :

" That in line 11 of sub-clause (1), after the word 'buildings' the words ' at the choice of the landlord' shall be inserted."

Mr. DEPUTY SPEAKER.—Amendment moved :

"That in line 11 of sub-clause (1), after the word 'buildings', the words 'at the choice of the landlord' shall be inserted."

† Sri V. SRINIVASA SHETTY.—As I have already said, it looks very unreasonable. Under certain circumstances, there is a likelihood of the landlord being evicted by an unscrupulous Controller. If he minds he can evict a landlord from his own building even if the landlord is a man of status. I want to avoid that. If the landlord is entitled possession of 3 or 4 houses, let him retain the house at his choice. According to the provision as it is, that choice should not be given to the landlord but to the Controller. I do not know whether it is reasonable. So far as I am concerned, it seems to be very reasonable that a landlord who has built a house should have the choice. I hope the Government will see my point of view and admit the amendment.

Sri G. VENKATAI GOWDA.—If it is the opinion that the Controller will always give the choice to the landlord, than we have no objection. Otherwise, if you provide in the rules, our purpose will be served.

12-00 NOON.

Sri KADIDAL MANJAPPA.—Sir, I have already dealt with this matter. It is not as if the person would be thrown out of his house. The section reads : where a landlord is in possession or is entitled to immediate possession of more buildings than one.....'. So, he will be asked to be in possession of one or more at the discretion of the Controller.

Sri V. SRINIVASA SHETTY.—Hon'ble Minister would know the difficulty if he is a resident of the building and if he is asked to occupy some other building.

Sri KADIDAL MANJAPPA.—We will try to provide something in the rules to safeguard the interest of the landlord. I am advised by the Law Department that there would be some procedural difficulty. So, I cannot accept it.

Mr. DEPUTY SPEAKER.—The question is :

"That in line 11 of the sub-clause (1), after the word 'buildings' the words 'at the choice of the land lord', shall be inserted."

The amendment was negatived.

Mr. DEPUTY SPEAKER.—The question is :

"That Clause 6 stand part of the Bill"

The motion was adopted

Clause 6 was added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 7; there is an amendment.

Sri V. SRINIVASA SHETTY.—I move :

"That in line 4, for the words 'as may be necessary to the building,' the words 'for its proper and more convenient use without changing the structure of the buildings', shall be substituted.'

Mr. DEPUTY SPEAKER.—Amendment moved:

"That in line 4, for the words 'as may be necessary to the building' the words 'for its proper and more convenient use without changing the structure of the buildings', shall be substituted.'

Amendment to clause 7:

† Sri V SRINIVASA SHETTY.—Sir, I have already stated that it is very unreasonable for the Controller to ask the landlord to change the very nature of the building. Alteration means, I do not know where it will end. He may be asked to repair the building or asked to incur certain expenditure for the proper use of the building. But, to alter the construction of the building even within the limitted expenditure is very unreasonable. After it is effected it may be given to some other person who may not like that alteration. So, this amendment is very reasonable. I do not know where the harm is in accepting this amendment. I commend this to the acceptance of this Hon'ble House.

Sri KADIDAL MANJAPPA (Minister for Revenue).—Sir, I am so sorry, I am not in a position to accept this amendment. This clause applies to building leased to public authority and the cost of the alteration should not exceed 12 per cent of the capital cost of the building. Further, there would be enhanced rent payable for the alteration made. Therefore, there is no harm in retaining this clause.

Mr. DEPUTY SPEAKER.—The question is:

"That in line 4, for the words 'as may be necessary to the building' the words 'for its proper and more convenient use without changing the structure of the buildings', shall be substituted."

The amendment was negatived.

Mr. DEPUTY SPEAKER.—The question is:

"That Clause 7 stand part of the Bill"

The motion was adopted.

Clause 7 was added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 8.

Sri F. W. CORBETT.—I move:

"That the following words shall be added at the end of sub-clause (3):—

"the choice of sub-tenant shall be left to the person sub-letting in all such cases, and the Controller shall not force on the person so sub-letting any person as sub-tenant of whom he does not approve".

Mr. DEPUTY SPEAKER.—Amendment moved:

"That the following words shall be added at the end of sub-clause (3):—

"the choice of sub-tenant shall be left to the person sub-letting in all such cases and the Controller shall not force on the person so sub-letting any person as sub-tenant of whom he does not approve".

† Sri F. W. CORBETT.—Sir, the Hon'ble Minister was pleased not to accept my pervious amendment about part of the building. I hope he will at least admit this case. I have already explained previously the danger and the difficulties of forcing people on the landlord as tenants whom they do not approve. There may be people who do not conduct themselves properly, they may make noise and all that. So, such tenants should not be forced on the landlord. Generally, for a house there will be ten or fifteen applicants and the landlord may be asked to select any one of them. If they are not able to accept the amendment, at least they may concede this and provide for such a provision in the rules.

Sri KADIDAL MANJAPPA.—Sir, I have already dealt with this point. There is safeguard in the sub-clause, namely, due regard to the customs, manners and social conventions of the persons occupying the remaining portions of the building should be taken into account while alloting the portion of the building. I think this is sufficient and in pursuance of this sub-clause rules are going to be framed. It is very difficult to lay

(Sri KADIDAL MANJAPPA)

down hard and fast rules in such cases. We cannot give absolute discretion to the owner himself to select his own tenants. Therefore, it is not possible for me to accept the amendment.

The amendment was, by leave of the House, withdrawn.

Mr. DEPUTY SPEAKER.—The question is :

"That Clauses 8 to 20 both inclusive stand part of the Bill."

The motion was adopted.

Clauses 8 to 20 both inclusive were added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 21.

Sri V. SRIAIVASA SHETTY.—I do not propose to move my amendment.

Mr. DEPUTY SPEAKER.—The question is :

"That Clauses 21 to 31, both inclusive, stand part of the Bill,"

The motion was adopted.

Clauses 21 to 31, both inclusive, were added to the Bill.

Mr. DEPUTY SPEAKER.—Clause 32.

Sri V. SRINIVASA SHETTY —I move :

"That in sub-clause (1) for the word 'may', the word 'shall' shall be substituted'.

Mr. DEPUTY SPEAKER.—Amendment moved :

'That in sub-clause (1), for the word 'may', the word 'shall' shall be substituted'.

Sri V. SRINIVASA SHETTY.—Sir, I would like to read only one paragraph from a most authoritative text book by Maxwell called Interpretation of Statues about the implemation of the words 'may' and "shall'. A more authoritative book than this does not exist:

> "Statutes which authorise persons to do acts for the benefit of others, or, as it is sometimes said, for the public good or the advancement of justice; have often given rise to controversy when conferring the authority in terms simply enabling and not mandatory. In enacting that they 'may' or 'shall' if they think fit', or 'shall have power', or that "it shall be lawful' for them to do such acts, a statute appears to use the language of mere permission, but it has been so often decided as to have become an axiom that in such cases such expressions may have-to say the least-a compulsory force (e), and so would seem to be modified by judicial exposition. On the other hand, in some cases, the authorised person is invested with a discretion, then those expressions seem divested of that compulsory force, and probably that is the *prima facie*-meaning.

(Extract from Maxwell on the Interpretation of Statutes-8th Edition page: 210-211)

I am reading Maxwell's interpretation of Statutes which deals with these things rather exaustively with these things. That is the conclusion, of the author. But I am not saying that there are not decisions to the contrary. I will agree with the Law Department in saying that it has been allowed in that manner. But *prima facie* it is not like that. Being lawyers, as some of us are, let us at least learn from great authorities that there is a doubt and we shall not give quarter for such doubts. It has been held *prima facie* like that and that is the meaning that a great authority gives. I am not begging for anything. If the Government feels that it will not be upto their dignity or prestige to accept the amendment, let them reject, I have no objection. But I have a great authority behind me when I say this, and I say that to make a declaration SHALL is the proper word and not MAY.

Sri KADIDAL MANJAPPA.—Sir, with regard to the interpretation of I am inclined to agree with the Hon'ble Member. But there are certain difficulties in accepting the suggestion that the word SHALL be substituted for MAY. I do not know why our friends think that we are adamant and unreasonable.

Sri V. SRINIVASA SHETTY.—We know it.

Sri KADIDAL MANJAPPA.—Not in all cases. In a few cases we have accepted the amendments tabled on the other side. They may have conveniently forgotten. That apart, I was inclined to accept the amendment. But I am told the Government of India have got some objection with regard to giving powers to fix charges in the case of some tourist hotels. Therefore I am sorry to say that it is not advisable to accept the amendment.

Sri G. VENKATAI GOWDA.—You can add a proviso excluding those tourist hotels.

Sri V. SRINIVASA SHETTY.—Government may frame rules excluding these tourist hotels. In that particular case, he may be instructed not to fix charges for certain hotels. Government have always the power to frame rules for the effective enforcement of statutes. I press the amendment Sir.

MR. DEPUTY SPEAKER.—The question is:

"That in sub-clause (1), for the word 'may' the word 'shall', shall be substituted."

The amendment was negatived.

MR. DEPUTY SPEAKER.—The question is:

"That Clauses 32 to 62 both inclusive and schedules 1, 2 and 3 stand part of the Bill.

The motion was adopted.

(Mr. Deputy Speaker)

Clauses 32 to 62 both inclusive and schedules 1, 2 and 3 were added to the Bill.

Motion to pass

Sri Kadidal Manjappa.—Sir, I beg to move:

"That the Mysore Rent Control Bill, 1960, as passed by the Legislative Council be passed."

Mr. Deputy Speaker.—The question is:

"That the Mysore Rent Control Bill, 1960, as passed by the Legislative Council be passed."

The motion was adopted.

INDIAN PARTNERSHIP (MYSORE AMENDMENT) BILL 1960.—

Motion to consider

Sri B. Vaikunta Baliga (Minister for Law and Labour).—Sir, I beg to move:

"That the Indian Partnership (Mysore Amendment) Bill, 1960, be taken into consideration."

Mr. Deputy Speaker.— Motion moved:

"That the Indian Partnership (Mysore Amendment) Bill, 1960, be taken into consideration."

Sri B. Vaikunta Baliga.— Sir, the point covered by the Bill is very simple and it cannot be open to debate. The Central Act that is Act IX of 1932 relates to the Indian Partnership Act. When States Reorganisation Act wa passed, by section 120 of the S. R. Act, this Government adopted the Indian Partnership Act of 1932 and the Act was suitably amended by passing section 59A. At that time, one little idea was overlooked namely that the district of Bellary had not come into the Reorganisation and had become part of the Mysore State a little earlier. Now so far as Bellary area is concerned it is necessary to amend it because the Registrar of Partnerships in Mysore has not got power to amend and the Madras Govt. has passed an Act removing the powers of the Registrar there and making his powers inoperative so far as Bellary is concerned. Therefore it is inevitable that the Registrar of Mysore should be vested with the power;and it is to fulfil that object this very simple Bill has been brought up. The object of the Bill is very simple and innocuous and in the interest of justice and equity that partnership concerns of Bellary desire that this should be passed.

Therefore I commend it to the acceptance of the House.